

Press call re Bay Delta flows: (Vicky Whitney)

Legislature directed SWRCB to only consider flows for Public Trust instream resources

Answers a specific question: what flows are necessary to protect fishery resources in the Delta under current conditions. Does NOT answer question of how best to allocate water resources. Worked closely with scientists from UC Davis, DFG, other fishery agencies, and other scientists.

Report makes clear that flow criteria does not take account of other public trust resources, such as upstream considerations, and may not apply if the State can modify habitat that is better for fish. For example, under natural conditions, there were a lot of shaded, shallow channels for fish. Those habitats don't exist in the Delta today, and the scientists believe it's best to move salmon quickly through the Delta today.

We did what the Legislature asked. Did flow criteria, and they are high. 75% of unimpaired flows January – June = Delta outflow. Nov-June 75% of UIF Sac R inflow.

In comparison, over the last 18-22 years, 33% in dry years and nearly 100% of UIF in wet years as Delta outflow. Around 50% Sac R inflow April to June on average. Less on SJR.

State law requires salmon populations be doubled from levels in the 1960s. We tried to develop numeric flow criteria to achieve numeric objectives. Also tried to achieve variability, we expressed the thresholds as a % of unimpaired flows.

The Legislature intends that this report be used in ongoing planning activities, such as BDCP and the Delta Plan. Will also be used in the Bay Delta WQCP process by SWRCB; that process will have regulatory effect and will be a much longer and more detailed process.

Adaptive management necessary, and science is not well understood at this point.

Roger & Cynthia doing press statements on the call.

Roger – one of many assignments in the legislative package. I haven't had a chance to review the report, just the ES. One, this is a good reminder that flows, and particularly dry year flows, will be an important component of any solution in the Delta. Two, this is one piece of information, it didn't balance to consider other interests as an adjudicatory process would. Once it's final, from my standpoint working on BDCP, this is intended to be used in planning decisions. I think the timing is good in that BDCP is in the middle of the effects analysis, not just flows, and how the various components interact, and over the next 2-3 months get the entire plan put together for a fall release to the public.

Cynthia – Agree with everything that Roger just said. We're very hopeful that the work that the Board has done in synthesizing the BAS will be a real aid to BDCP. One thing to add, regarding the confusion about this process, is to put a little different perspective. I think the Mono Lake case is the model for what the Leg did. This is the first step, what the science says on what the instream Public Trust resources in the Delta need. This was intended to just do the first step, and

then we'll have both sides of the conservation (what the ecosystem needs in a perfect world, and then we can talk about what is feasible and can be implemented). Clearly we've been taking too much out of the system, and we need to improve flows and do that in a way that is compatible with other needs.

Les Grober – we didn't do this in a vacuum, we did this in a public forum, with other experts from UC Davis and resource agencies.

Q&A:

Bettina Boxall – these criteria are more protective than the current biological opinions, right? Wouldn't they reduce exports even further?

Answer (Vicky/Les) – very large percentages of unimpaired flows, but it's not self implementing. Preliminary analysis in the appendix of the Report: upstream of Delta restricted 70%, Delta exports restricted 30% -- compared to current baseline conditions, which include the existing BiOps. Also could not meet the minimum pools to protect salmon upstream.

Vicky – Board is NOT proposing that these flows be implemented. The Board believes that the high water cost shows the need to address other stressors.

Roger – Board isn't proposing that these flows be implemented. I think 30% on top of what's already there is more than that. I think the point to keep in mind, as Vicky said, is based on what's out there. Flows is about how much and what quality and which direction is it going. I think everyone recognizes how complex it is, and that's what the BDCP is about. I hope we'll have a solid attempt to do that this Fall. This clearly wouldn't work.

Mike Taugher – so the 70% reduction North of Delta is out of around 9 MAF (from Delta Vision), and the 30% reduction is from exports of 5-6MAF per year? But this doesn't get into priorities, area of origin, etc.? (yes, that's correct)

Bill \_\_\_\_ (SWRCB press staffer): Not regulatory, not pre-decisional.

Matt Weiser: Significance of this report? What keeps this from becoming another academic exercise? How will these findings influence future permit decisions in the Delta?

Roger: Unlike a lot of reports that get attention and then go away, this one was required as part of the Legislature package and needs to go into the BDCP consideration. I think the flow piece of BDCP is a complicated piece, and we have a Delta now, and we're talking about a future delta. What attributes of this report matter less if the Delta changes (e.g., if we have good habitat in the Delta, and don't need to rush salmon through, then what changes)? Once we have a plan together, this will come back to the Board, along with the next WQCP.

Cynthia: The Legislature's approach was designed to avoid this just going on the shelf, which is why we turned to the public trust approach because of the strong legal basis for requiring their protection on an ongoing basis. This approach gives the Board the luxury of considering the scientific and ecological needs, before dealing with feasibility. By being clear in the Legislation that future decisions in the Delta must be informed by this, I think it will be an ongoing

discussion but is something that cannot be shelved.

Mike Taugher: the target for the Sac River (75% flow) – how does that compare to what's in BDCP now?

Roger: “it really depends” – it depends on the season and amount of flows. BDCP is looking at when flows are low in the Spring (~11,000), there would be no diversion in the new facilities, and as the flows increase, you divert a portion and bypass a portion. It really depends on the time; you go into the Fall, and you leave only the first 5,000 cfs. BDCP does not have a percent of upstream flows in the Sacramento that would be required to make it work. Timing really matters. One of the principles in BDCP is that when it's wet, take more, when it's dry, take less. Remember for BDCP what we're trying to do is to meet the State law (NCCP) which means we need to conserve those species and move towards recovery. If we can do that, the flow piece and the other pieces, that's what we're going to see if we can do.

Matt Weiser: Roger, do you think the results of this report will affect the size or design of the plumbing that's being considered?

Roger: I don't think that it will, but we'll need to take a look at that. The philosophy in BDCP is to take more when wet and less when dry, so we'll need the capacity to take more when it's wet. I think it won't really change much, but we'll need to take a look at that.